1950.

File No. Commissioner's (Abolition of Office) II/50 (N)

Legal Dept.

B **BRANCH**

Subject:—

Notifications under the Bombay Commissioner's (Abolition of Office) Act, 1950

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File No. Commissioner's (Abolition of Office) II/50 (N)

Gen. 194 a.

Ab 8 B

Legal Department.

The section referred to in the statement attached to G.R., R.D.No. 220/49, dated 19th April 1950 have been examined with reference to the provisions of the Bill and it appears that the authorities specified in column 4 of the statement and shown as being competent to exercise the powers under section specified in column 2 of the statement are in fact the authorities substituted by the Bombay Commissioners (Abolition of office)Bill, 1950 except for sections 82 and 188 of the Bombay Land Reforms Code, So far as the Bombay Land Revenue ~~Re~~ Code is concerned, the statement made in the body of the G.R. that "Government is pleased to delegate to the Collectors the powers and functions" is not therefore correct. In view of what is stated above, the resolution should have stated that after the coming into force of the Bombay Commissioners (Abolition of Office) Act, 1950 the authorities specified in column 4 of the statement would be competent to exercise the powers under the sections specified against them in column 2 of the statement.

2. As regards the powers under section 82 of the Bombay Land Revenue Code, the power of the commissioner to make rules in substitution of the provisions of the section 80 or 74 when their operation is suspended by the Government, has been taken away from him under the Bill and it now vests in the State Government. The R.D. wants that Collectors should exercise the said power. If so, it will

be necessary to issue an order under sec. 3 of the Bombay Commissioners (Abolition of Office) Act, 1950. Similarly as regards the power under section 158 of the Act, If the powers under the section are to be exercised by the Collectors, they will have to be similarly empowered under section 3 of the new Act.

3. As regards the power under Administrative Or Orders referred to in the statement, they are executive orders merely and an executive order like the resolution in question will be sufficient. As regards the Bombay Land Revenue Rules and other statutory Acts referred to in the statement an order under section 3 of the new Act will be necessary if the authority to be substituted for the Commissioner is not to be the State Government, but some other authority. In any case R.D. should note that an order under section 3 of the New Act being a statutory order cannot be issued unless and until the new Bill has been assented to by the President and is published as an Act.

o.c. sd. J.R.D. 26-4-50

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Local Department.

A revised draft notification is sent herewith.

2. If reference to the Commissioner in sections 23, 23A(1) and 61 of the Bombay District Police Act, 1890 is intended to be substituted by reference to the District Magistrate it will lead to the position of a District Magistrate taking certain action with his own previous sanction while what is wanted in these sections is to delete reference to the Commissioner. It can be achieved only by amending these particular sections.

SA/-
29/5

Additional Secretary to Government

U.O. No H.D. No. 6876 dated the 20th May 1950.

Submitted for signature

MM

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Legal Department.

The wording proposed by the L.S.G.and P.H.D.as it stands would amount to legislation as it reproduces the wording of section 3 of the Bill. What is intended by clause 3 of the Bill is that the State Government is to appoint such authority as it thinks fit for the purpose of clause 3 so that by the construction of the provision of clause 3 the references to the Commissioner in the Particular Acts shall be deemed to be the references to the authority so appointed. Such an Order can be made in respect of all the four Acts in one notification. A revised draft order is accordingly sent herewith.

Sd/-
25/4

Additional Secretary to Government.

U.R. to L.S.G. and P.H.D. No. 5624 dated the

25th April 1950 .

Submitted for signature.

Addl. Secy.

MM

SC

ORDER.

Local Self Government and Public Health Department.

Bombay Castle, April 1950.

No. In exercise of the powers conferred by section 3 of the Bombay Commissioners (Abolition of Office) Act, 1950, the Government of Bombay is pleased to appoint the Director of Local Authority as an authority under the said section, whereupon references to the Commissioner in the following laws shall be construed as references to the said authority, namely :-

Bombay Commissioners (Abolition of offices) Act, 1950.

1. The Bombay District Municipal Act, 1901 (Bom. III of 1901).
2. The Bombay Local Boards Act, 1923(Bom. VI of 1923).
3. The Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925)
4. The Bombay Village Panchayats Act, 1933 (Bom. VI of 1933).

By order of the Governor of Bombay,

Secretary to Government.

Legal Department.

In view of the provisions of section 23 of the Bombay General Clauses Act, 1904 there is no legal objection to issuing the draft order at page 285 before the Act is brought into force. But the said order shall not take effect till the commencement of the Act.

2. The draft has been amended slightly. In view of the provisions of section 4 of the Bombay Commissioners (Abolition of Office) Act, 1950, it will not be legally feasible to amend sections 82 and 158 of the Bombay Land Revenue Code by substituting the words "the State Government" in these sections. As these substitutions form part of the Act it will no longer be competent to make any further amendment in the said two sections by means of an order under section 3 of the said Act. The rule of construction inserted in section 3 of the Act is also "subject to the provisions made in the Schedule". In view of this, the amendments in sections 82 and 158 can only be effected by amendment of the Code.

in the manner suggested by the R.D. See 4 of the Bombay Commissioners (Abolition of office) Act, 1950 Amends specifically Sections 82 & 158

Sd/

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Additional Secretary to Government.

U.R. to R.D. No 10080, dated the 1st August 1950.

Submitted for appro val and signature.

Sd

Legal Department.

An order under the Bombay Commissioners (Abolition of Office Act, 1950, will serve the purpose.

A draft of the order is sent herewith.

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o.c.

Additional Secretary to Government,

U.R.to M. E .D.(Through R.D.), No. 11356 dated the 10th August 1950

Submitted for signature.

MM 5C

ORDER.

Education Department.

Bombay Castle, 1950.

No. In exercise of the powers conferred by section 3 of the Bombay Commissioners (Abolition of Office) Act, 1950 (Bom. XXVIII of 1950), the Government of Bombay is pleased to appoint with effect from and on the 15th August 1950, the Divisional Director of Local Authority as an authority under the said section, whereupon references to the Commissioner in the following law shall be construed as references to the said authority, namely :-

Bombay Commissioners (Abolition of office) Act, 1950.

The Lord, Keay Maharashtra Industrial Museum Act, 1947 (Bom. XXXII of 1947).

By order of the Governor of Bombay.

Secretary to Government.

MM 5C